

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN

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M.J.J.,

Plaintiff,

v.

POLK COUNTY SHERIFF'S DEPARTMENT,  
DARRYL L. CHRISTENSEN,

Defendants.

Case No. 15-CV-433

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**ANSWER TO AMENDED COMPLAINT AND AFFIRMATIVE DEFENSES**

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Defendant, Darryl L. Christensen, by Martin J. De Vries of Sager & Colwin Law Offices, S.C., answers plaintiff's amended complaint as follows:

1. Answering paragraph 1, this paragraph is a legal conclusion with no factual material. Thus, defendant cannot respond. Defendant denies all liability.
2. Answering paragraph 2, this paragraph is a legal conclusion with no factual material. Thus, defendant cannot respond. Defendant denies all liability.
3. Answering paragraph 3, is without knowledge or information sufficient to form a belief as to the truth of the allegations.
4. Answering paragraph 4, this paragraph is a legal conclusion with no factual material. Thus, defendant cannot respond. Defendant denies all liability.
5. Answering paragraph 5, admits.
6. Answering paragraph 6, admits.

7. Answering paragraph 7, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

8. Answering paragraph 8, this paragraph is a legal conclusion with no factual material. Thus, defendant cannot respond. Defendant denies all liability.

9. Answering paragraph 9, this paragraph is a legal conclusion with no factual material. Thus, defendant cannot respond. Defendant denies all liability.

10. Answering paragraph 10, this paragraph is a legal conclusion with no factual material. Thus, defendant cannot respond. Defendant denies all liability.

11. Answering paragraph 11, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

12. Answering paragraph 12, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

13. Answering paragraph 13, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

14. Answering paragraph 14, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

15. Answering paragraph 15, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

16. Answering paragraph 16, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

17. Answering paragraph 17, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

18. Answering paragraph 18, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

19. Answering paragraph 19, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

20. Answering paragraph 20, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

21. Answering paragraph 21, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

22. Answering paragraph 22, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

23. Answering paragraph 23, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

24. Answering paragraph 24, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

25. Answering paragraph 25, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

26. Answering paragraph 26, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

27. Answering paragraph 27, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

28. Answering paragraph 28, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

29. Answering paragraph 29, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

30. Answering paragraph 30, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

31. Answering paragraph 31, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

32. Answering paragraph 32, denies.

33. Answering paragraph 33, denies.

34. Answering paragraph 34, denies.

35. Answering paragraph 35, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

36. Answering paragraph 36, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

37. Answering paragraph 37, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

38. Answering paragraph 38, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

39. Answering paragraph 39, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

40. Answering paragraph 40, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

41. Answering paragraph 41, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

42. Answering paragraph 42, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

43. Answering paragraph 43, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

44. Answering paragraph 44, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

45. Answering paragraph 45, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

46. Answering paragraph 46, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

47. Answering paragraph 47, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

48. Answering paragraph 48, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

49. Answering paragraph 49, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

50. Answering paragraph 50, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

51. Answering paragraph 51, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

52. Answering paragraph 52, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

53. Answering paragraph 53, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

54. Answering paragraph 54, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

55. Answering paragraph 55, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

56. Answering paragraph 56, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

57. Answering paragraph 57, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

58. Answering paragraph 58, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

59. Answering paragraph 59, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

60. Answering paragraph 60, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

61. Answering paragraph 61, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

62. Answering paragraph 62, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

63. Answering paragraph 63, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

64. Answering paragraph 64, denies.

65. Answering paragraph 65, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

66. Answering paragraph 66, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

67. Answering paragraph 67, incorporates herein answers to paragraph 1 through 66 of the complaint.

68. Answering paragraph 68, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

69. Answering paragraph 69, denies.

70. Answering paragraph 70, denies.

71. Answering paragraph 71, denies.

72. Answering paragraph 72 denies.

73. Answering paragraph 73, denies.

74. Answering paragraph 74, denies.

75. Answering paragraph 75, incorporates herein answers to paragraph 1 through 74 of the complaint.

76. Answering paragraph 76, denies.

77. Answering paragraph 77, denies.

78. Answering paragraph 78, denies.

79. Answering paragraph 79 denies.

80. Answering paragraph 80, denies.



81. Answering paragraph 81, incorporates herein answers to paragraph 1 through 80 of the complaint.

82. Answering paragraph 82, denies.

83. Answering paragraph 83, denies.

84. Answering paragraph 84, denies.

85. Answering paragraph 85 denies.

86. Answering paragraph 86, denies.

87. Answering paragraph 87 denies.

88. Answering paragraph 88, denies.

89. Answering paragraph 89, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

90. Answering paragraph 90, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

91. Answering paragraph 91, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

92. Answering paragraph 92, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

93. Answering paragraph 93, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

94. Answering paragraph 94, denies.

95. Answering paragraph 95, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

96. Answering paragraph 96, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

97. Answering paragraph 97, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

98. Answering paragraph 98, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

99. Answering paragraph 99, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

100. Answering paragraph 100, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

101. Answering paragraph 101, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

102. Answering paragraph 102, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

103. Answering paragraph 103, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

104. Answering paragraph 104, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

105. Answering paragraph 105, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

106. Answering paragraph 106, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

107. Answering paragraph 107, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

108. Answering paragraph 108, denies.

109. Answering paragraph 109, incorporates herein answers to paragraph 1 through 108 of the complaint.

110. Answering paragraph 110, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

111. Answering paragraph 111, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

112. Answering paragraph 112, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

113. Answering paragraph 113, admits.

114. Answering paragraph 114, denies.

115. Answering paragraph 115, denies.

116. Answering paragraph 116, incorporates herein answers to paragraph 1 through 115 of the complaint.

117. Answering paragraph 117, denies.

118. Answering paragraph 118, denies.

119. Answering paragraph 119, denies.

120. Answering paragraph 120, denies.

121. Answering paragraph 121, denies.

122. Answering paragraph 122, incorporates herein answers to paragraph 1 through 121 of the complaint.

123. Answering paragraph 123, denies.

124. Answering paragraph 124, denies.

125. Answering paragraph 125, denies.

126. Answering paragraph 126, incorporates herein answers to paragraph 1 through 125 of the complaint.

127. Answering paragraph 127, denies.

128. Answering paragraph 128, denies.

129. Answering paragraph 129, denies.

130. Answering paragraph 130, denies.

131. Answering paragraph 131, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

132. Answering paragraph 132, denies.

133. Answering paragraph 133, incorporates herein answers to paragraph 1 through 132 of the complaint.

134. Answering paragraph 134, denies.

135. Answering paragraph 135, denies.

136. Answering paragraph 136, denies.

137. Answering paragraph 137, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

138. Answering paragraph 138, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

139. Answering paragraph 139, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

140. Answering paragraph 140, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

141. Answering paragraph 141, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

142. Answering paragraph 142, denies.

143. Answering paragraph 143, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

144. Answering paragraph 144, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

145. Answering paragraph 145, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

146. Answering paragraph 146, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

147. Answering paragraph 147, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

148. Answering paragraph 148, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

149. Answering paragraph 149, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

150. Answering paragraph 150, incorporates herein answers to paragraph 1 through 149 of the complaint.

151. Answering paragraph 151, denies.

152. Answering paragraph 152, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

### **AFFIRMATIVE DEFENSES**

As and for affirmative defenses to plaintiff's amended complaint, defendant Darryl L. Christensen submits the following:

1. Defendant is entitled to immunity from liability and suit pursuant to the doctrine of qualified immunity.
2. Plaintiff's claims are barred by *Parratt v. Taylor*, 451 U.S. 521 (1981).
3. Plaintiff has not alleged facts sufficient to support punitive damages.
4. Plaintiff may have failed to mitigate damages.

5. Plaintiff's amended complaint fails to state a claim upon which relief can be granted.

6. Some or all of plaintiff's claims may be barred by the statute of limitations.

7. Plaintiff failed to exhaust administrative remedies.

8. Plaintiff's claims are barred or limited by the provisions of 42 U.S.C. § 1997e(e) injury requirement.

9. Plaintiff's state law claims are barred by failure to comply with notice of claim provisions of Wis. Stats. §893.80 and subject to caps set forth therein.

10. The actions of defendant Darryl L. Christensen alleged in the Amended Complaint were not actions under color of state law.

Dated at Fond du Lac, Wisconsin, this 7<sup>th</sup> day of January, 2016.

SAGER & COLWIN LAW OFFICES, S.C.  
Attorneys for Defendant,  
Darryl L. Christensen

*/s/ Martin J. De Vries*

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Martin J. De Vries  
State Bar No. 1032279

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